

## **Chapter VI**

### **Adjudication**

#### **6-100 -- General**

- a. The standard which must be met for clearance or assignment to sensitive duties is that, based on all available information, the person's loyalty, reliability, and trustworthiness are such that entrusting the person with classified information or assigning the person to sensitive duties is clearly consistent with the interests of national security.
- b. The principal objective of the DoD personnel security adjudicative function, consequently, is to assure selection of persons for sensitive positions who meet this standard. The adjudication process involves the effort to assess the probability of future behavior which could have an effect adverse to the national security. Since few, if any, situations allow for positive, conclusive evidence of certain future conduct, it is an attempt to judge whether the circumstances of a particular case, taking into consideration prior experience with similar cases, reasonably suggest a degree of probability of prejudicial behavior not consistent with the national security. It is invariably a subjective determination, considering the past but necessarily anticipating the future. Rarely is proof of trustworthiness and reliability or untrustworthiness and unreliability beyond all reasonable doubt.
- c. Establishing relevancy is one of the key objectives of the personnel security adjudicative process in evaluating investigative material. It involves neither the judgment of criminal guilt nor the determination of general suitability for a given position; rather, it is the assessment of a person's trustworthiness and fitness for a responsibility which could, if abused, have unacceptable consequences for the national security.
- d. While equity demands optimal uniformity in evaluating individual cases, assuring fair and consistent assessment of circumstances from one situation to the next, each case must be weighed on its own merits, taking into consideration all relevant facts, and prior experience in similar cases. All information of record, both favorable and unfavorable, must be considered and assessed in terms of accuracy, completeness, relevance, seriousness, and overall significance. In all adjudications the protection of the national security shall be the paramount determinant.

#### **6-101 -- Central Adjudication**

- a. To ensure uniform application of the requirement of this Regulation and to ensure that DoD personnel security determinations are effected consistent with existing statutes and Executive orders, the head of each Military Department and Defense Agencies shall establish a single Central Adjudication Facility for his/her component. The function of such facility shall be limited to evaluating personnel security investigations and making personnel security determinations. The chief of each Central Adjudication Facility shall have the authority to act on behalf of the head of the Component concerned with respect to personnel security

determinations. All information relevant to determining whether a person meets the appropriate personnel security standard prescribed by this Regulation shall be reviewed and evaluated by personnel security specialists specifically designated by the head of the Component concerned, or designee.

b. In view of the significance each adjudicative decision can have on a person's career and to ensure the maximum degree of fairness and equity in such actions, a minimum level of review shall be required for all clearance/access determinations related to the following categories of investigations.

(1) ***BI/SBI/PR/ENAC/SII:***

(a) ***Favorable:*** Completely favorable investigations shall be reviewed and approved by a adjudicative official in the civilian grade of GS-7/9 or the military rank of 0-3.

(b) ***Unfavorable:*** Investigations that are not completely favorable shall undergo at least two levels of review by adjudicative officials, the second of which must be at the civilian grade of GS-11/12 or the military rank of 0-4. When an unfavorable administrative action is contemplated under paragraph 8-201, the letter of intent (LOI) to deny or revoke must be approved and signed by an adjudicative official at the civilian grade of GS-13/14 or the military rank of 0-5. A final notification of unfavorable administrative action, subsequent to the issuance of the LOI, must be approved and signed at the civilian grade of GS-14/15 or the military rank of 0-6.

(2) ***NACI/DNACI/NAC/ENTNAC:***

(a) ***Favorable:*** A completely favorable investigation may be finally adjudicated after one level of review provided that the decision making authority is at the civilian grade of GS-5/7 or the military rank of 0-2.

(b) ***Unfavorable:*** Investigations that are not completely favorable must be reviewed by an adjudicative official in the civilian grade of GS-7/9 or the military rank of 0-3. When an unfavorable administrative action is contemplated under paragraph 8-201, the letter of intent to deny/revoke must be signed by an adjudicative official at the civilian grade of GS-11/12 or the military rank of 0-4. A final notification of unfavorable administrative action subsequent to the issuance of the LOI must be signed by an adjudicative official at the civilian grade of GS-13 or the military rank of 0-5 or above.

c. Exceptions to the above policy may only be granted by the Deputy Under Secretary of Defense for Policy.

## **6-102 -- Evaluation of Personnel Security Information**

a. The criteria and adjudicative policy to be used in applying the principles at paragraph 6-100, above, are set forth in paragraph 2-200 and Appendix 1 of this Regulation. The ultimate consideration in making a favorable personnel security determination is whether such determination is clearly consistent with the interests of national security and shall be an overall

common sense evaluation based on all available information. Such a determination shall include consideration of the following factors:

- (1) The nature and seriousness of the conduct;
- (2) The circumstances surrounding the conduct;
- (3) The frequency and recency of the conduct;
- (4) The age of the individual;
- (5) The voluntariness of participation; and
- (6) The absence or presence of rehabilitation.

b. Detailed adjudication policy guidance to assist adjudicators in determining whether a person is eligible for access to classified information or assignment to sensitive duties is contained in Appendix I. Adjudication policy for access to SCI is contained in DCID 1/14.

### **6-103 -- Adjudicative Record**

a. Each clearance/access determination, whether favorable or unfavorable, shall be entered into the Defense Central Security Index (DCSI), a sub-element of the Defense Central Index of Investigations (DCII). (Operational details regarding implementation of the DCSI shall be implemented in a forthcoming change to this Regulation).

b. The rationale underlying each unfavorable administrative action shall be reduced to writing and is subject to the provisions of DoD Directive 5400.7 (reference (aa)) and DoD Directive 5400.11 (reference (bb)).